

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

LEGEND’S CREEK LLC, JON RESTIVO and)	
ADEN MOTT)	
Plaintiffs)	
Vs.)	C.A. No. 22-cv-309
)	
THE STATE OF RHODE ISLAND and the)	
RHODE ISLAND DEPARTMENT OF HEALTH)	
Defendants)	

PLAINTIFFS’ MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to F.R.Civ.P. 56(a), Plaintiff hereby move for summary judgment on liability on Count I of their Amended Complaint alleging a physical taking of their property by Defendant in violation of the Fifth and Fourteenth Amendments. The Federal Circuit has said that “[w]hether a taking has occurred is a question of law based on factual underpinnings.” Memmer v. United States, 50 F.4th 136, 143-44 (Fed.Cir. 2022). Plaintiffs submit that the material facts are undisputed. Plaintiffs rely on the accompanying Statement of Undisputed Facts and their Memorandum of Law.

Respectfully submitted,

**LEGEND’S CREEK LLC, JON RESTIVO and
ADEN MOTT**, by their attorneys,

/s/ Thomas W. Lyons
Thomas W. Lyons #2946
Rhiannon S. Huffman #8642
Strauss, Factor, Laing & Lyons
One Davol Square, Suite 305
Providence, RI 02903
(401) 456-0700
tlyons@straussfactor.com

CERTIFICATION

I hereby certify that on September 30, 2024, a copy of the foregoing was filed and served electronically on all registered CM/ECF users through the Court's electronic filing system and served by mail on anyone unable to accept electronic filing. Parties may access this filing through the Court's CM/ECF system.

/s/ Thomas W. Lyons